

Amendments to the Specification

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 128 Please replace the paragraph at page 74, beginning at line 2, under the heading DEPOSITS with the following:

Applicant(s) have made a deposit of at least 2500 seeds of hybrid maize plant X1139Y and inbred parent plants GE565937 and GE502199 with the American Type Culture Collection (ATCC), 10801 University Boulevard, Manassas, VA 20110-2209 USA. ATCC Deposit Nos. _____ and _____, respectively. The seeds deposited with the ATCC on _____ and _____, respectively were taken from the deposit A deposit of the seed of hybrid X1139Y is and has been maintained by Pioneer Hi-Bred International, Inc., 800 Capital Square, 400 Locust Street, Des Moines, Iowa 50309-2340, since prior to the filing date of this application. Access to this deposit will be available during the pendency of the application to the Commissioner of Patents and Trademarks and persons determined by the Commissioner to be entitled thereto upon request. Upon allowance of any claims in the application, the Applicant(s) will make available to the public, pursuant to 37 C.F.R. § 1.808, ~~without restriction~~ a sample(s) of the deposit of at least 2500 seeds of hybrid maize plant X1139Y and inbred parent plants GE565937 and GE502199 with the American Type Culture Collection (ATCC), 10801 University Boulevard, Manassas, Virginia 20110-2209. This deposit of seed of hybrid maize plant X1139Y and inbred parent plants GE565937 and GE502199 will be maintained in the ATCC Depository, which is a public depository, for a period of 30 years, or 5 years after the most recent request, or for the enforceable life of the patent, whichever is longer, and will be replaced if it becomes nonviable during that period. ~~The seeds deposited with the ATCC will be taken from the same deposit maintained at Pioneer Hi Bred and described above.~~ Additionally, Applicant(s) ~~will meet~~ have satisfied all the requirements of 37 C.F.R. §§ 1.801 - 1.809, including providing an indication of the viability of the sample ~~when the deposit is made upon deposit.~~ This deposit of Hybrid Maize Line X1139Y will be maintained without restriction in the ATCC Depository, which is a public depository, for a period of 30 years, or 5 years after the most recent request, or for the enforceable life of the patent, whichever is longer, and will be replaced if it ~~ever~~ becomes nonviable during that period. Applicant(s) have no authority to waive any restrictions imposed by law on the transfer of biological material or its transportation in commerce. Applicant(s) do not waive any infringement of their rights granted under this patent

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ent.
or under the Plant Variety Protection Act (7 USC 2321 et seq.) which may protect hybrid maize plant X1139Y.